Supreme Court, U.S.
FILED
SEP 15 1993
OFFICE OF THE CLERK

93-980

NO. (1)

IN THE SUPREME COURT OF

THE UNITED STATES

October Term, 1993

SAMUEL ANDRISANI, PETITIONER,

V.

APPELLATE DEPARTMENT OF THE SUPERIOR COURT (STATE OF CALIFORNIA, COUNTY OF LOS ANGELES, ET AL.

PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEALS FOR

THE NINTH CIRCUIT

# PETITION FOR A WRIT OF CERTIORARI

Samuel Andrisani
In Propria Persona
Post Office Box 38068
Los Angeles
California 90038
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38 pp

## QUESTIONS PRESENTED FOR REVIEW

(1) May a citizen of the United States be expelled from a public library for the alleged criminal act of disorderly conduct and NOT be allowed a trial by a jury of his peers?

(((Not only was the Petitioner denied a JURY TRIAL for alleged "disorderly conduct" (criminal matter) in a public library, BUT ALSO denied a JURY TRIAL for the claimed civil rights violation (criminal matter) of Unlawful Expulsion From A Public Facility.)))

(2) Must a judge, and other public officials (including attorneys), request INDICTMENT when it is learned that a CIVIL RIGHTS VIOLATION has taken place?

(((Democracy is founded on CIVIL RIGHTS. Violation of CIVIL RIGHTS is a government violation--an ACT OF TREASON.)))

(3) May a judge or prosecutor prevent a citizen from bringing a Civil Rights Violation to the attention of a GRAND JURY? (The May 4, 1992 Grand Jury Request was blocked.)

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IN THE SUPREME COURT OF

THE UNITED STATES

October Term, 1993

No. _____

SAMUEL ANDRISANI, PETITIONER

V.

APPELLATE DEPARTMENT OF THE SUPERIOR COURT (STATE OF CALIFORNIA, COUNTY OF LOS ANGELES), ET AL.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Petitioner, Samuel Andrisani, respectfully prays that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Ninth Circuit, entered on May 7, 1993. The petition for rehearing was denied on June 17, 1993.

## OPINION BELOW

The decisions rendered by the Ninth Circuit Court; the United States District Court (Central District); the Superior Court (California, Los Angeles County); and the Municipal Court (California, Los Angeles County) appear in the appendix.

## JURISDICTION

The judgment of the court of appeals was entered on May 7, 1993 (see Appendix). The court of appeals denied a petition for rehearing on June 17, 1993 (se appendix).

The jurisdiction of this Court is invoked under 28 U.S.C. 1254 (1).

## CONSTITUTIONAL PROVISION INVOLVED

Fourteenth Amendment: All persons born or naturalized in the United States and subject to the jruisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive

any person of life, liberty or property without DUE PROCESS OF LAW; nor deny to any person within the jurisdiction the EQUAL PROTECTION OF THE LAWS.

STATUTES INVOLVED

42 U.S.C.S. Section 1983: Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the DEPRIVATION OF ANY RIGHTS privileges, or immunities secured by the Constitution and laws, shall be LIABLE to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

28 U.S.C.S. Section 1331: The district courts shall have original jurisdiction of all civil actions arising under the Constitution.

STATEMENT OF FACTS

Petitioner Samuel Andrisani telephoned the Public Library and was told by the reference librarian that the material sought was available.

When Samuel Andrisani arrived at the library the material requested could not be found. Samuel Andrisani requested to speak to the library supervisor and gave some suggestions to the supervisor regarding "reserving materials by telephone" and "not allowing the public to file materials on the shelves."

The library supervisor got upset about these suggestions and called the security guard to force Samuel Andrisani out of the library. The security guard, without any question, immediately forced Samuel Andrisani out of the Public Library.

The library rules state that when one is accused of creating a "disturbance" (disorderly conduct), the patron is to be given a warning. If after a "second warning" the patron persists in being disorderly, the police are to be called and the patron arrested. (See Library Rules in Appendix).

None of these library rules were applied to Samuel Andrisani, The library supervisor, after receiving the suggestions from Samuel Andrisani, called the security guard and the guard expelled

Samuel Andrisani from the library.

The Municipal Court judge merely dismissed the complaint without comment. (See Appendix).

The Superior Court Appellate Department insisted upon a "police report" and "comments of witnesses" when none existed or no opportunity was granted to obtain testimony of witnesses. (See Appendix).

The petitioner, Samuel Andrisani, filed a complaint in the USDC (Central District). The opinion rendered by the USDC revolved around lack of subject matter jurisdiction and statute of limitations for some defendants (see Appendix).

The Ninth Circuit court parrots the position of "lack of jurisdiction" and "statute of limitations." (See Appendix.)

REASONS FOR GRANTING THE PETITION

The library rules should have been followed by the library supervisor. The patron is to be arrested when "disorderly conduct" persists after a second warning. Without arrest and a trial, Samuel Andrisani was falsely accused.

The Federal government cannot pass any law denying one a jury trial (due process and equal protection) in criminal matters unless the Constitution is amended. To deny one a civil rights trial (criminal matter) at the United States District Court (USDC) level by the use of "Summary Judgment" or "Direct Appeal to the US Supreme Court" from a state court is unconstitutional (Fourteenth Amendment). There cannot be any proper proceeding for a civil rights claim if a Jury Trial is denied at the USDC level (42 U.S.C.S. Sec. 1983).

The USDC is mandated to conduct Jury Trials for civil rights violations under 28 U.S.C.S. Section 1331. This statute cannot be nullified by court local rules.

The cases and "laws" used by the USDC and the Ninth Circuit Court to avoid a Jury Trial for civil rights violations (criminal matter) at the USDC level are unconstitutional.

The USDC and the Ninth Circuit Court violate the Oath of Office when they use wrong cases and laws to circumvent the Constitution.

The federal and state governments cannot without a Constitutional Amendment avoid the responsibility of a Jury Trial at the USDC level for civil rights violations.

Each court which has has handled this case has violated the Constitution by denying a Jury Trial:

The municipal court judge failed to recognize that Samuel Andrisani was accused and punished for an "alleged crime" without the benefit of a trial--a violation of constitutional rights.

The appellate department of the superior court is asking for "police reports" and the "opinion of the municipal court judge" when none exists (Samuel Andrisani was ejected without arrest--contrary to library rules).

The USDC and the Ninth Circuit Court claim "lack of jurisdiction" and "statute of limitations." Both of these lower courts do not recognize their obligation under the Constitution and Federal statutes. Both lower courts quote cases that have NOTHING to do with Constitutional Violations (Constitutional violations are criminal violations).

Because constitutional violations are criminal violations, it is the obligation of all judges to request indictment (as was the case in the recent notorious "Rodney King Excessive Force" case). The federal courts do have jurisdiction when civil rights are violated. To be called a "criminal"

and expelled from a Public Place (without a trial) is constitutionally wrong.

The "statute of limitations" argument posed by the UsDC and the Ninth Circuit court is ridiculous. There is no reason to proceed with a "civil rights violation" in USDC if a remedy can be gotten in the state courts. In effect, the action is commenced and the statute of limitations does not apply to a commenced action ( California Code of Civil Procedures 361). Furthermore, there is no "time limitation" when one's civil rights are violated (civil rights violation is a "national injury" and not solely a "personal injury"--in effect the "crime of treason" is the crime of violating the Constitution). The Japanese Interment case is an example of "no statute of limitations" for civil rights violations (TREASON): Hirabayashi V. United States 828 F2d 591; 627 Fed Supp 1445.

The obligation of the "judge defendants" (respondents) to uphold the Constitution and report civil rights violations (to request indictment for the crime of civil rights violation) is inherent in the OATH OF OFFICE. It is misprision

of felony (a crime) to not report civil rights violations. Judges have no immunity to violate the constitution--such violations are "criminal." There is no immunity for judges to commit civil rights crimes: See Nixon V. Administration of General Services, Et Al., 433 U.S. 425.

The "judge defendants" and the Non-judge defendants", as well as the public and private attorneys involved, violated civil rights in this case. JURISDICTION IS LOST WHEN CONSTITUTIONAL RIGHTS ARE VIOLATED BECAUSE THE VIOLATING COURT BECOMES A KANGAROO COURT WHOSE JUDGMENTS ARE NULL AND VOID.

CONCLUSION

The United States Supreme Court is the final guardian of the Constitution. When the lower courts violate constitutional rights, they reject and encourage the rejection of civil rights--such acts are substantially against the government of the United States. They are not only criminal acts, they are acts of Treason (Whitney V. California, 274 U. S. 357).

If the United States Supreme Court allows civil rights violations, the highest court then would be approving ACTS OF TREASON.

The United States Supreme Court must stop this increasing trend by lower courts to violate the civil rights of citizens.

It must be clearly recognized and stated that: COURTS WHICH VIOLATE CONSTITUTIONAL RIGHTS ARE KANGAROO COURTS AND THEIR DECISIONS ARE NULL AND VOID. JUDGES PRESIDING OVER KANGAROO COURTS MUST BE IDENTIFIED AND PUNISHED AS CRIMINALS AND TRAITORS.

The Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

Samuel Andrisani

Samuel Andrisani, Petitioner

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September 10, 1993

APPENDIX

Petition for Rehearing Denied by Ninth Circuit Court

Ninth Circuit Court Judgment

United States District Court Judgment

Judgment of the Appellate Department of the Superior Court

Municipal Court Judgment

City of Glendale Library Rules

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

(Filed Jun 17 1993
Cathy A Catterson
Clerk U.S. Court
of Appeals)

Samuel Andrisani

Plaintiff-Appellant,

V.

Superior Court: Robert L. Roberson, Jr.; Sally G. Kisco; Ronald E. Swearinger; Municipal Court: Daniel F. Calabro; City of Glendale; Evelyn Robertson, Library Supervisor; Jack Ramsey, Library Director; Burns International Security Services.

Defendants-Appellees.

No. 92-56541

D.C. No. CV-92-02749-AWT (E)

ORDER

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Before: Browning, Kozinski, and Rymer, Circuit Judges.

The petition for rehearing is denied.

NOT FOR PUBLICATION

UNITED STATE COURT OF APPEALS

FOR THE NINTH CIRCUIT

(Filed
May 07 1993
Cathy A. Catterson
Clerk, US Court
of Appeals)

| | |
|---|---|
| Samuel Andrisani<br><br>Plaintiff-Appellant,<br><br>V.<br><br>Superior Court: Robert L. Roberson, Jr.; Sally G. Disco; Ronald E. Swearinger: Municipal Court: Daniel F. Calabro; City of Glendale; Evelyn Robertson, Library Supervisor; Jack Ramsey, Library Director; Burns International Security Services.<br><br>Defendants-Appellees. | No. 92-56541<br><br>D.C. No. CV-92-02749-AWT (E)<br><br>MEMORANDUM* |

Appeal from the United States District Court
for the Central District of California
A. Wallace Tashima, District Judge, Presiding

Submitted April 27, 1993 **

Before: Browning, Kozinski and Rymer, Circuit Judges.

Samuel Andrisani appeals pro se the district court's dismissal with prejudice of his 42 U.S.C.

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* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable



(cont'd next page)

Section 1983 action as barred by the statute of limitations and for lack of subject matter jurisdiction. The civil rights action arose when Andrisani brought a tort action in municipal court against the City of Glendale, California, the employees of a Glendale public library, and a security agency for allegedly expelling him from the library. After the municipal court dismissed the action and the Appellate department affirmed, Andrisani filed this action claiming that the judges of the municipal court and the appellate court had violated his due process and equal protection rights. We have jurisdiction under 28 U.S.C. Section 1291 and we affirm.

We review de novo a district court's dismissal of an action on statute of limitations grounds. Harding V. Calceran, 889 F.2d 906, 907 (9th Cir. 1989), cert. denied, 111 S.Ct. 951 (1991). When a motion to dismiss is based on the running of a

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** for decision without oral argument. FedR App. P. 34 (a); 9th Cir. R. 34-4.



BEST AVAILABLE COPY

statute of limitations period, dismissal can be granted "only if the assertions of the complaint, read with the required liberality, would not permit the plaintiff to prove that the statute was tolled." Vaughan V. Grijalva, 927 F2d 476, 478 (9th Cir. 1991) (citations omitted).

Statute of Limitations

Andrisani contends that the district court erred by dismissing his action as barred by the statute of limitations.[1/] This contention lacks merit.

Title 42 U.S.C. Section 1983 does not contain its own statute of limitations. Consequently, the applicable statute of limitations for section 1983 claim is the limitation period for personal injury causes of action under California state law. See Perez V. Seevers, 869 F2d 425, 426 (9th Cir.) (per curiam), Cert. denied, 493 U.S. 860 (1989) (citing Wilson V. Garcia 471 U.S. 261, 279-80 (1985). Under

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1/ Andrisani appears to claim that the tort action equitably tolled the statute of limitations as to his civil rights claims. This claim is without merit.

The tort action was filed after the one year statute of limitations expired. See Cal. Code Civ. Proc. Sec. 340. Moreover, state tort claims are "legally distinct" from federal civil rights claims.

(cont'd next page)

California's applicable statute of limitations, a party has one year from the date he knew or should have known of the facts supporting a cause of action within which to commence his section 1983 claim. See Cal. Code Civ. Proc. Sec. 340 (3); see also Perez, 869 F.2d at 426. An action is deemed to be commenced when the complaint is filed. Fed. R. Civ. P. 3.

Federal law determines when a cause of action accrues. Bagley V. CMC Real Estate Corp. 923 F2d 758, 760 (9th Cir. 1991) (citing Norco Construction, Inc. V. King County, 801 F2d 2nd 1143. 1145 (9th Cir. 1986), cert. denied, 112 S. Ct 1161 (1992). "A federal claim accrues when the plaintiff knows or has reason to know of the injury which is the basis of the action, Id. (citations omitted).

Andrisani knew or had reason to know of the alleged injury that is the basis of his claims against the City of Glendale and the library defendants on May 20, 1988, the day he was allegedly expelled from the library. The present action was not filed

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1/ (cont'd)Ervin V. County of Los Angeles, 848 F2d 1018, 1019-20 (9th Cir. 1988), cert. denied, 489 U.S. 1014 (1989). The filing of a state tort action does not toll the statute of limitations in federal civil rights action. Id.

until May 6, 1992, four years after the claim accrued. Therefore, these claims are barred. See id: see also Perez, 869 F 2d at 426. [2]/

Subject Matter Jurisdiction

Andrisani contends that the district court erred by dismissing his action for lack of subject matter jurisdiction. This contention also lacks merit.

The United States district courts have jurisdiction over general challenges to rules promulgated by state courts in nonjudicial proceedings which do not require a review of a final state court judgment in a particular case. Allah V. Superior Court, 871 F2d 887, 890-91 (9th Cir. 1989) (citing D.C. Court of Appeals V. Feldman, 460 U.S. 462, 486 (1983). "They do not have jurisdiction over direct challenges allege that the state court's action was unconstitutional." Id. "Tje proper court in which to obtain a direct review of state-court determiations is the United States Supreme Court." Id at 891

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2/ With respect to the judge defendant's, Andrisani's claims arguably did not accrue until the denial of his request for certification to the court of appeal on May 17 1991. Therefore, those claims are not time barred. Nevertheless, they fail as a matter of law. See infra.

(citing 28 U.S.C. Sec. 1257 (3)).

Here, Andrisani alleges that the judges of the municipal court and the appellate court denied him due process and equal protection by dismissing his action without leave to amend and seeks a reversal of their decisions. To the extent that Andrisani requested the district court to conduct a direct review of the state courts' judgments and to scrutinize their application of various rules and procedures relevant to his case, the district court lacked subject matter jurisdiction over his complaint. See Id at 891.

Affirmed.

(Filed
Oct 13 1992
Clerk US District
Court
Central District
of California
By Deputy)

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

| | |
|---|---|
| Samuel Andrisani<br><br>Plaintiff<br><br>V.<br><br>Appellate Department of the Superior Court (State of California, County of Los Angeles), et al.,<br><br>Defendants. | No. CV 92-2749-AWT (E)<br><br>REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE |

This Report and Recommendation is submitted to the Honorable Wallace Tashima, United States District Judge, pursuant to 28 U.S. C. Sec. 636 and General Order194 of the United States District Court for the Central District of California.

PROCEEDINGS

Plaintiff filed this civil rights action on May 6, 1992. Defendants filed Motions to Dismiss ("the motions") on July 24, , August 10, and September 2, 1992. The Magistrate Judge determined

treat the motions as summary judgment motions. See orders, filed August 10, and September 3, 1992. Plaintiff filed opposition to the motions on August 26 and September 9, 1992. 1/ The Court has taken the motions under submission without oral argument. See L.R. 7.11.

BACKGROUND

On May 20, 1988, Plaintiff allegedly was expelled from a public library. On June 2, 1989, Plaintiff filed a tort action in Municipal Court against two library employees, the City of Glendale, and a security agency ("the tort action"). The Municipal Court dismissed the tort action without leave to amend. The Appellate Department of the California Superior Court affirmed this dismissal.

The present complaint names as defendants the persons who were defendants in the tort action, plus the judges who adjudicated the tort action. The complaint seeks reversal of the judicial decisions made in the tort action and seeks damages against the non-judge defendants.

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1/ Plaintiff's most recently filed opposition expresses some dissatisfaction with the form of the Magistrate Judge's orders. The Ninth Circuit essentially mandates use of this form for the protection of pro se litigants. Klingele V Eikenberry, 849 F2d, 409. 411 (9th Cir. 1988).

## DISCUSSION

Plaintiff's civil rights claims are barred by the applicable statute of limitations or otherwise fail as a matter of law. The statute of limitations applicable to section 1983 claims arising in California is one year from the date of accrual. Cal. Civ. Proc. Code Sec. 340 (3): Del Percio V. Thornsley, 877 F2d 785, 786(9th Cir. 1989): see Wilson V. Garcia 471 U.S. 261, 276, 279-80 (1985). "Federal law determines when a cause of action accrues. Under federal law a cause of action generally accrues when a plaintiff knows or has reason to know of the injury which is the basis of his action." Cline V. Brusett, 661 F2d 108, 110 (9th Cir. 1981) (citations omitted).

Plaintiff knew or had reason to know of the alleged injury that is the basis for his claims against the non-judge defendants on May 20, 1988, the day he allegedly was expelled from the library. Since Plaintiff filed this action nearly four years later, these claims are barred.[2/]

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2/ (see next page)

Plaintiff appears to contend that the tort action equitably tolled the statute of limitations as to his civil rights claims (Plaintiff's Opposition, filed September 9, 1992, p. 3). This contention must be rejected. The tort action itself was filed after the one year statute of limitations expired. Moreover state tort claims are "legally distinct" from federal civil rights claims: therefore, the filing of the former does not toll the statute of limitations as to the latter. Ervin V. County of Los Angeles, 848 F2d 1018, 1019-20 (9th Cir. 1988), cert. denied. 489 U. S. 1014 (1989).

Plaintiff's claims against the judge defendants arguably did not accrue until the May 17, 1991 denial of Plaintiff's request for certification to the court of appeal. Consequently, Plaintiff's claims against the judge defendants arguably are not time barred.

Plaintiff's claims against the judge defendants do fail as a matter of law, however. Federal district courts "do not have jurisdiction over

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2/ Some of Plaintiff's claims might be characterized as pendant state law claims. Because there exists no basis for exercising federal jurisdiction, any pendent state law claims alleged in the complaint also

direct challenges to final decisions of state courts, even if those challenges allege that the state court's action was unconstitutional. ...This rule applies even though the direct challenge is anchored to alleged deprivations of federally protected due process and equal protection rights." Allah V. Superior Court, 871 F.2d 887, 890-91 (9th Cir. 1989): accord, World Wide Church of God V. McNair, 805 F.2d 888, 890-91 (9th Cir. 1986). 3/

CONCLUSION

This action should be dismissed with prejudice. It is "absolutely clear that the deficiencies of the complaint could not be cured by amendment." Karim-Panahi v. Los Angeles Police Dep't, 839 F.2d 621, 623 ((th Cir 1988) (citations and quotations omitted): see Conley V. Gibson, 355 U.S. 41, 45-46 (1957) (dismissal with prejudice is appropriate where "it appears beyond doubt that the plaintiff can prove no set of facts in support of the claim that would entitle him to relief").

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3/ The complaint does not include any claim for damages against the judge defendants. The doctrine of judicial immunity would bar any such claim. See Ashelman V. Pope, 793 F.2d 1072, 1075 (9th Cir. 1986): see Mireles V. Waco, 112 S.Ct. 286,288 (1991).

## RECOMMENDATION

For all of the foregoing reasons, it is recommended that the Court issue an Order: (1) approving and adopting this Report and Recommendation; and (2) directing that Judgment be entered dismissing the action with PREJUDICE.

Dated: October 13, 1992.

(signature)

Charles F. Eick

United States Magistrate Judge

(Lodged
Oct 13 1992
Clerk
US District Court
Central District of
California
By Deputy)

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

| | |
|---|---|
| Samuel Andrisani,<br><br>Plaintiff<br><br>v.<br><br>Appellate Department of the Superior Court (State of California, County of Los Angeles), et al.,<br><br>Defendants. | No. CV 92-2749-AWT (E)<br><br>ORDER ADOPTING FINDINGS CONCLUSIONS AND RECOMMENDATIONS OF UNITED STATES MAGISTRATE JUDGE |

It is Ordered that: (1) the Report and Recommendation of the Magistrate Judge is approved and adopted; and (2) Judgment shall be entered dismissing the action with PREJUDICE.

It is further ordered that the clerk serve forthwith a copy of this order and the Judgment of this date on the Plaintiff and counsel for defendant.

(blank)

Dated: _____ 1992

(no signature)

_____

A. Wallace Tashima
United States District Judge

(FILED Mar 12 1991
Frank Zolin
County Clerk
signature Alan
Hardey
By Alan Hardey
Deputy Clerk)

APPELLATE DEPARTMENT OF THE SUPERIOR COURT

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

| | |
|---|---|
| Samuel Andrisani | ) Superior Court No. |
| | ) BV 18513 |
| Plaintiff and Appellant, | ) Municipal Court of the |
| | ) |
| V. | ) Glendale Judicial Dist. |
| | ) |
| City of Glendale, et al. | ) No. 89C01472 |
| | ) |
| Defendant and Respondent. | ) MEMORANDUM JUDGMENT |
| | ) |
| | ) |

This cause having been submitted for decision, and fully considered, judgment is ordered as follows:

The order dismissing the case after sustaining defendanr's demurrer without leave to amend is affirmed. Respondent to recover costs on appeal.

First, we note that appellant has bailed to cite any authority in support of his contentions thereby waiving his right to appellate review. (People V. Diaz (1983) 140 Cal. App. 3d 813, 824; People v. Ham

(1970) 7 Cal. App. 3d 768, 783 overruled on another point in People v. Compton (1971) 6 Cal. 3d 55.) Further a brief review of appellant's contentions reveals them to be without merit.

As to appellant's contention that the trial court lacked jurisdiction to rule on the criminal charge of disorderly conduct, without an adequate record we are unable to consider this point. It is appellant's burden to furnish the appellate court with a record that is adequate to consider the contentions on appeal (Hamwi V. Citinational Buckeye Inv. Co. (1977) 72 Cal App. 3d 462, 474.)

Appellant's contention that the trial court did not have the right to dismiss his case "because the witnesses are against the appellant" is also unsupported by the record on appeal.

The same is true for appellant's argument that the City of Glendale hired a biased investigator.

With regard to appellant's contention that the trial court erred in determining that he was not falsely imprisoned by being ordered to leave the library, we note that false imprisonment is defined as "the non-

consensual, intentional confinement of a person without lawful privilege, for an appreciable length of time, however short." (City of Newprt Beach v. Sasse (1970) 9 Cal. App. 3d 803, 810.) Since appellant was never confined, the trial court did not err in determining that no liability exists under substantive law for a false imprisonment and that plaintiff would be unable to state a cause of action on that ground. (Lawrence v. Bank of America (1985) 161 Cal. App. 3d 431, 436; Banerian V. O'Malley (1974) 42 Cal. App. 3d 604, 616.)

As to appellant's emotional distress cause of action appellant was required to show that the City of Glendale's liability was authorized by statute. (Gov. Code. Section 815.) This he failed to do and cannot do.

We concur.

(signature not legible)
Judge

(signature not legible)
Presiding Judge

(signature not legible)
Judge

(Filed
May 07 1991
Not legible
Alan Hardey--sig.
By Alan Hardey, Deputy)

APPELLATE DEPARTMENT OF THE SUPERIOR COURT

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

| | |
|---|---|
| Samuel Andrisani | Superior Ct. No. Bv 18513 |
| Plaintiff and Appellant, | Municipal Court of the Glendale Judicial Dist. |
| V. | No. 89C01472 |
| City of Glendale, et al., | ORDER DENYING CERTIFICATION |
| Defendant and Respondent | |

The Court*

The petition of plaintiff for certification to the Court of Appeal having been filed, was not received by this court in sufficient time to be filed timely.

Said petition is hereby denied.

(signature) (signature) (signature)

Before*
Roberson, P. J. Swearinger, J. and Disco, J.

Samuel Andrisani
Post Office Box 38068
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California 90038

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(Original Filed
Municipal Court
Glendale Judicial Dist.
April 11, 1990
O. Olson Clerk
By (not legible) Deputy)

In Propria Persona

MUNICIPAL COURT OF THE GLENDALE JUDICIAL DISTRICT
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

| | |
|---|---|
| Samuel Andrisani<br><br>Plaintiff<br><br>Versus<br><br>Glendale Public Library<br>Jack Ramsey, Library Director<br>Evelyn Robertson, Library Supervisor<br>Burns International Security Service<br>"Tony" security Guard<br>Carl Warren & Company<br>Does 1 to 50 Inclusive<br><br>Defendants. | Case Number: 89C01472<br><br>JUDGMENT |

On October 6, 1989, in the above-entitled court, Division 1, Judge Daniel F. Calabro, presiding, the demurrer of the defendant was sustained and the plaintiff, Samuel Andrisani, was given no leave to amend the complaint.

Therefore, it is decreed that the complaint is dismissed by Judge Calabro based on the evaluation of the demurrer.

Dated: Apr 11 1990 Div. 001 Hon. Daniel F. Calabro
Commissioner
(no signature)

## STANDARDS OF BEHAVIOR IN THE LIBRARY

The following Standards of Behavior as approved by Library Administration and Staff, and authorized by the Glendale City Charter, Article 13, Section 1, are to be used as general guide-lines in maintaining ORDER within the library. Library users are expected to behave in a manner which enables their fellow users and the staff to accomplish their intended library tasks in a safe and ORDERLY atmosphere. Staff will take APPROPRIATE ACTION when user behavior causes DISRUPTION or unreasonable interference in the delivery of services. The following list of specific prohibitions will be enforced by staff:

LIBRARY USERS SHALL NOT:

1. Destray, deface or illegally remove library materials or property.
2. Put feet on furniture or on walls.
3. Move furniture or study with more than four at a table.
4. Eat, drink or smoke in the building.

5. CREATE A DISURBANCE BY YELLING, cursing, throwing objects, running, or misusing the library facilities.

6. Use headsets with radios or cassette players.

7. Sell, panhandle or solicit in the Library Building, on the grounds or in the parking lot.

8. Enter areas marked "staff only."

9. Leave young children unattended or allow excessive crying or DISRUPTIVE BEHAVIOR.

10. Bring pets (except seeing eye dogs) into the building or leave them unattended on library grounds.

11. Sleep on premises, loiter, or bring excessive baggage into the building.

In addition, library users are required to be fully clothed, including shirt and shoes, at all times.

ENFORCEMENT:

VIOLATION of the foregoing could result in revoking of library privileges OR CRIMINAL PROSECUTION if the CONDUCT constitutes a VIOLATION of either state law or the GLENDALE MUNICIPAL CODE.

ENFORCEMENT PROCEDURES:

1. ONE WARNING will be given by the library monitor

or staff BEFORE person is TOLD TO LEAVE premises.

2. IF NEEDED for enforcement, CONTACT SUPERVISOR in CHARGE OF BUILDING.

3. CALL POLICE (4911) if above measures are NOT EFFECTIVE:

(a) identify yourself and your location

(b) DESCRIBE ACCURATELY WHAT IS HAPPENING and and RELATE it if possible to categories of the PENAL CODE (see attachment).*

(c) give description and number of persons involved.

(d) stay on the line until requested to hang up.

These procedures are designed to ensure the MOST EFFECTIVE POLICE RESPONSE.

INFORM designated person in charge, and the Circulation Section, that the police have been called.

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*PENAL CODE SECTION 415: Fighting, Noise, Offensive WORDS: Any of the following persons shall be PUNISHED by IMPRISONMENT in the county JAIL for a period of not more than 90 days, a fine of not more than $400, or both such imprisonment and fine: Any person who maliciously and willfully disturbs another person by loud noise.